

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

RICHARD SIMONS	§	
v.	§	CIVIL ACTION NO. 6:18cv328
LORIE DAVIS, ET AL.	§	

ORDER OF DISMISSAL


The above-entitled and numbered civil action was referred to United States Magistrate Judge K. Nicole Mitchell, who issued a Report recommending that the Defendant's motion for summary judgment be granted and the lawsuit dismissed without prejudice for failure to exhaust administrative remedies. The Plaintiff filed objections to the Report contending that the Magistrate Judge did not address his motion for summary judgment and stating that he exhausted his administrative remedies because he sought relief through an I-60 inmate request form, to which he did not receive a response, and that this form tolled the time for filing a grievance. He also argued that he learned of the problem on October 31, 2017 and that his grievance period commenced at that time, even though he submitted his I-60 in late September.

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of the case, has been presented for consideration. The court has conducted a careful and thorough *de novo* review of the objections raised by Plaintiff to the Report. It concludes that the findings and conclusions of the Magistrate Judge are correct and adopts the same as the findings and conclusions of the court. It is accordingly

ORDERED that the Defendant's motion for summary judgment (docket no. 25) is hereby **GRANTED** and the above-styled civil action is **DISMISSED** without prejudice for failure to exhaust administrative remedies. It is further

ORDERED that any and all motions by either party not previously ruled upon are hereby
DENIED.

SIGNED this the 9th day of June, 2020.



RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE